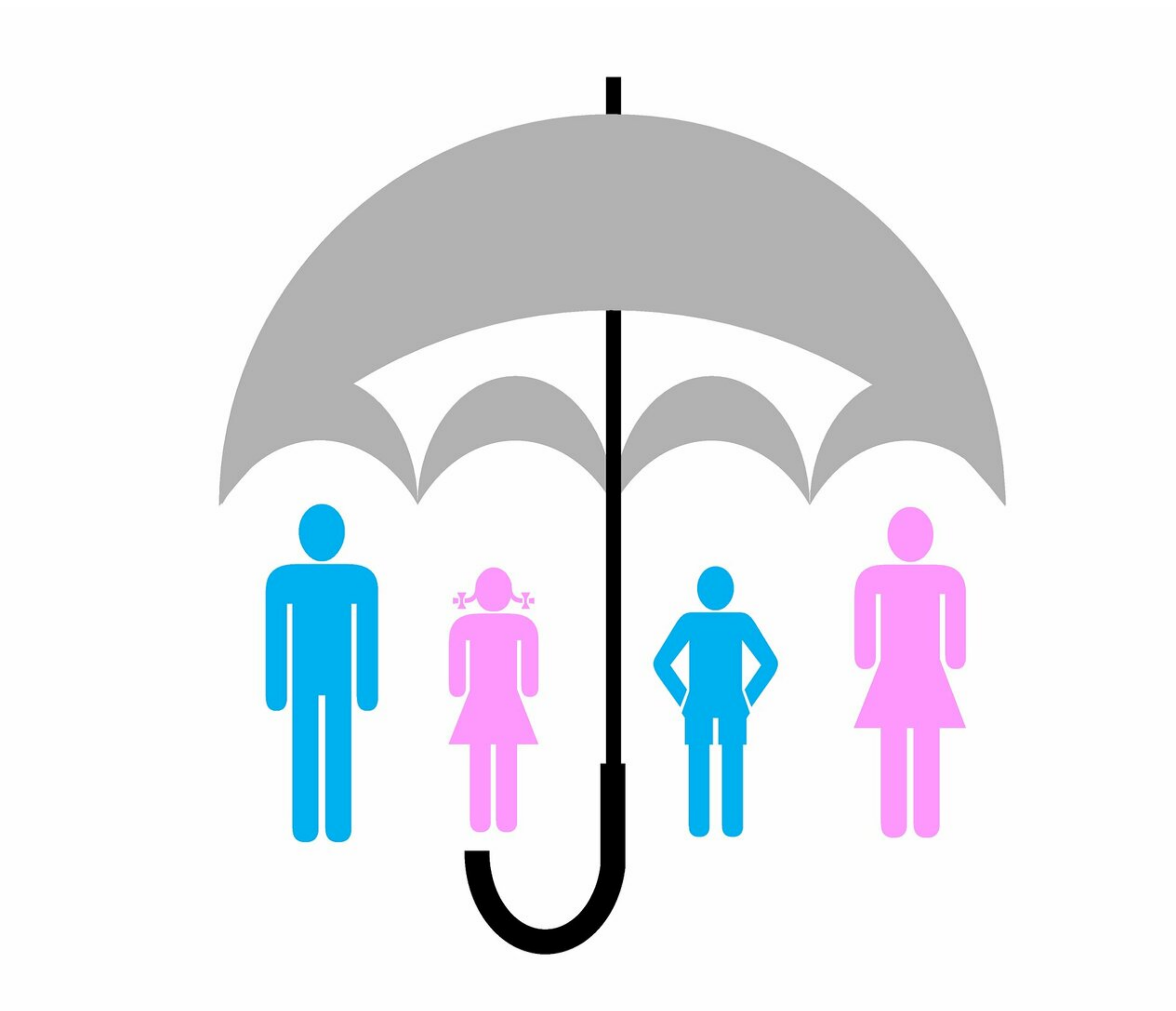
Lawsuit alleges Obamacare plan-switching scheme targeted low-income consumers

April 17 2024, by Julie Appleby, KFF Health News



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A wide-ranging lawsuit filed April 12 outlines a moneymaking scheme by which large insurance sales agency call centers enrolled people into Affordable Care Act plans or switched their coverage, all without their permission.

According to the lawsuit, filed in U.S. District Court for the Southern District of Florida, two such call centers paid tens of thousands of dollars a day to buy names of people who responded to misleading advertisements touting free government "subsidies" and other rewards. In turn, sales agents used the information to either enroll them in ACA plans or switch their existing policies without their consent.

As a result, the lawsuit alleges, consumers lost access to their doctors or medications and faced financial costs, such as owing money toward medical care or having to repay tax credits that were paid toward the unauthorized coverage.

Some consumers were switched multiple times or had duplicative policies.

"We allege there was a plan that targeted the poorest of Americans into enrolling in health insurance through deceptive ads and unauthorized switching," to gain compensation for the sign-ups or capture the commissions that would have been paid to legitimate insurance agents, said Jason Doss, one of two lawyers who filed the case following a four-month investigation.

Doss and Jason Kellogg, the other lawyer on the case, which was filed on behalf of several affected policyholders and agents, are seeking class action status.

KFF Health News has reported on similar concerns raised by consumers and insurance agents.

Named as defendants are TrueCoverage and Enhance Health, which operate insurance call centers in Florida and other states; Speridian Technologies, a New Mexico-based limited liability company that owns and controls TrueCoverage; and Number One Prospecting, doing business as Minerva Marketing, which is also a lead-generating company. The lawsuit also names two people: Brandon Bowsky, founder and CEO of Minerva; and Matthew Herman, CEO of Enhance Health. Attempts to reach the companies for comment were unsuccessful.

According to the lawsuit, the call centers had access to policyholder accounts through "enhanced direct enrollment" platforms, including one called Benefitalign, owned by Speridian.

Such private sector platforms, which must be approved by the Centers for Medicare & Medicaid Services, streamline enrollment by integrating with the federal ACA marketplace, called healthcare.gov. The ones included in this case were not open to the public, but only to those call center agencies granted permission by the platforms.

One of the plaintiffs, Texas resident Conswallo Turner, signed up for ACA coverage in December through an agent she knew, and expected it to go into effect on Jan. 1, according to the lawsuit. Not long after, Turner saw an ad on Facebook promising a monthly cash card to help with household expenses.

She called the number on the ad and provided her name, date of birth, and state, the lawsuit says. Armed with that information, sales agents then changed her ACA coverage and the agent listed on it five times in just a few weeks, dropping coverage of her son along with way, all without her consent.

She ended up with a higher-deductible plan along with medical bills for her now-uninsured son, the lawsuit alleges. Her actual agent also lost the commission.

The lawsuit contains similar stories from other plaintiffs.

The routine worked, it alleges, by collecting names of people responding to online and social media ads claiming to offer monthly subsidies to help with rent or groceries. Those calls were recorded, the suit alleges, and the callers' information obtained by TrueCoverage and Enhance Health.

The companies knew people were calling on the promise "of cash benefits that do not exist," the lawsuit said. Instead, call center agents were encouraged to be "vague" about the money mentioned in the ads, which was actually the subsidies paid by the government to insurers toward the ACA plans.

The effort targeted people with low enough incomes to qualify for large subsidies that fully offset the monthly cost of their premium, the lawsuit alleges. The push began after March 2022, when a special enrollment period for low-income people became available, opening up a year-round opportunity to enroll in an ACA plan.

The suit asserts that those involved did not meet the privacy and security rules required for participation in the ACA marketplace. The lawsuit also alleges violations of the federal Racketeer Influenced and Corrupt Organizations Act, known as RICO.

"Health insurance is important for people to have, but it's also important to be sold properly," said Doss, who said both consumers and legitimate agents can suffer when it's not.

"It's not a victimless crime to get zero-dollar health insurance if you don't qualify for it and it ends up causing you tax or other problems down the road," he said. "Unfortunately, there's so much fraud that legitimate agents who are really trying to help people are also being pushed out."

Citation: Lawsuit alleges Obamacare plan-switching scheme targeted low-income consumers (2024, April 17) retrieved 2 May 2024 from https://medicalxpress.com/news/2024-04-lawsuit-alleges-obamacare-scheme-income.html